IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3735 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMINABEN W/O ISMAIL ADAM MITHA

Versus

STATE OF GUJARAT

Appearance:

MR AD SHAH for Petitioner

Mr S K Patel, APP for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 14/08/2000

ORAL JUDGEMENT

Rule. Learned APP, Mr S K Patel waives service of notice on behalf of the State. Looking to the urgency of the matter, it has been taken for final hearing today.

I have heard the learned Advocates for the parties. Mr A D Shah, learned Advocate for the petitioner states that the present applicant requires to attend to a marriage ceremony of grand daughter of the applicant and therefore, it is necessary for her to leave the territory of India. It is found that in the past also by order dated 13.7.1998, she was permitted to leave Indian territory for limited period. But at that time, the trial had not concluded. Now it is noticed that the trial against the present applicant has been concluded and she has been acquitted. However, it is brought to the notice of the Court that the State has preferred appeal but it has not yet been admitted. So far as the appeal is concerned, the presence of the present petitioner may not be a basic necessity which was there at the time when the trial had proceeded against her. She has not visited the said place where she intend to go at present for so many years according to the arguments of Mr A D Shah. In the aforesaid view of the matter, when the marriage of a very near relative is going to be solemnised, it would be appropriate to permit the applicant to leave Indian territory. Therefore, the passport has to be returned to the applicant on conditions.

2. Mr S K Patel, learned APP aragues that since it is a matter of marriage ceremony, only a period not exceeding four weeks may be permitted. However, learned Advocate for the applicant states that she has been visiting abroad after a lapse of six years and naturally when the applicant has been acquitted and is visiting a place in U.K. after a long time, she may have some time to spend there. The indulgence would be necessary when the trial is not pending and she has been totally exonerated in the said trial. In that view of the matter, this application deserves to be allowed. This application is accordingly allowed. Applicant-Aminaben, wife of Ismail Adam Mitha is permitted to leave Indian territory on depositing an amount of Rupees One lakh in the court of Sessions Judge, Bharuch in Sessions Case No. No. 145/96 which arises from C.R. No. II 73/95 of Nabipur police station on furnishing surety of Rs.25,000/- with P.R. of like amount. She shall return to Indian territory on completion of four months i.e. by 20.12.2000. For the aforesaid purpose, Nabipur police station authorities are directed to hand over passport of the applicant to her on condition that she will return the passport to the said police station on her return. The aforesaid undertaking shall be furnished by her before leaving the country.

Rule is made absolute as indicated above. D.S. permitted.

14.8.2000 [D P Buch, J.]
msp.